

CHAPTER 5

USE OF RESERVE COMPONENT AND AUXILIARY FORCES

A. GENERAL

Although Title 10, U.S.C., Section 673b (reference (ddd)), authorizes the President to order members of the Selected Reserve to active duty for "any operational mission," it specifically prohibits the involuntary recall of Selected Reservists to support Federal and State agencies in time of a serious natural or manmade disaster, accident or catastrophe. Members of the Ready Reserve, including Selected Reservists, may be ordered to active duty for major domestic crises under Section 673 (reference (eee)). However, the President must first declare a national emergency. The intent of Congress is that the National Guard serves as the first line of response under the command of the Governor; and, if more support is needed, Federal assistance should be requested. Past experience has shown that military Reservists and National Guard forces make a significant contribution in providing support to Federal, State, and local governments engaged in emergency operations. Selected Reservists have historically volunteered to serve during emergencies. There are a number of highly specialized and unique skills and talents found in the Selected Reserves that are critical to effective disaster relief.

Reserve officers serving as Emergency Preparedness Liaison Officers (EPLOs), who are trained in emergency preparedness matters, are located throughout the United States and serve as a network that unites FEMA, military commanders, and State and local emergency preparedness officials in the case of or planning for a disaster or emergency. The Service sponsored EPLOS are attached to CONUSAs, FEMA regions, and STARCS and furnish a source of readily available personnel for emergency operations augmentation.

B. LEGAL ISSUES PERTAINING TO USE OF RESERVISTS

Reservists basically serve on active duty in two modes, voluntary and involuntary.

1. Use of Reservist "Volunteers". Individual Reservists may be ordered to active duty, with their consent, under 10 U.S.C. 672(d) (reference (fff)). The State governor must also consent to activation of National Guard personnel.

2. Involuntary Recall of Reservists. The Presidential authority to recall Reservists to augment active duty forces for operational missions specifically forbids recall of Reservists to "provide assistance to either the Federal Government or a State

in time of a serious natural or manmade disaster, accident, or catastrophe" under 10 U.S.C. 673b(b) (reference (ggg)). Through this statute (enacted in 1976 following the Vietnam War), Congress granted the President limited authority to call up Reservists for the mission of augmenting operational forces during periods of rising tensions. While this prohibition applies only to reference (ddd), Congress clearly excluded matters such as training, civil disturbances, and disasters from the scope of the Presidential recall authority in 10 U.S.C. 673b (reference (ddd)). Only the Coast Guard has the authority to order an involuntary recall of Reservists for a natural disaster under 14 U.S.C. 712 (reference (hhh)). The Secretary of the Army may order USAR and National Guard units, and personnel not assigned to a unit, to active duty for a period of not more than 15 days per year, but this authority is normally used to perform annual training. However, with the **ALL HAZARDS** approach to emergency planning, and recognition in E.O. 12656 (reference (l)) and current National Security Directives that disasters can cause national security emergencies, there are provisions whereby Reservists may be called up under the partial mobilization or full mobilization provisions of 10 U.S.C. (reference (iii)). For instance, if a large natural or manmade disaster were to occur and its severity and scope threatened or affected national security (e.g. severe damage to a nuclear power plant) , the President could declare both a major disaster and national emergency, including involving the partial mobilization provisions of 10 U.S.C. 673(a) (reference (jjj)). Similarly, if a calamitous national disaster were to occur in time of war or a national emergency declared by Congress, the President might **call** up an unlimited number of Reservists under the full mobilization provisions of reference (jjj)) for up to the duration of the war or national emergency, plus 6 months.

C. USE OF NATIONAL GUARD FORCES FOR EMERGENCY PREPAREDNESS

1. National Guard forces are administered by the National Guard Bureau for the Federal Government. Command of the National Guard forces is through the appointed State Adjutant General to the respective State and territorial Governors.

2. In approximately half the States, the State Adjutant General not only commands the National Guard but also, during periods of civil emergency and disaster, has supervisory responsibilities for the Office of Emergency Services (**OES**). In the remaining States, OES continues to operate as an independent agency during such periods.

3. Response to domestic emergency becomes a joint responsibility involving the Federal, State, and local government when the President approves a State governor's request for Federal assistance. When a local government is overwhelmed by a domestic emergency, the Governor is expected to apply his State

resources, which include the National Guard, the Office of Emergency Services, and the State Police. When a Governor's resources are insufficient, he or she may ask the President for Federal assistance. If the Federal civil agencies require additional assistance, then the Department of Defense may be called upon to support these agencies with additional equipment, supplies, or personnel.

4. The Department of Defense position on use of National Guard forces in response to a catastrophic disaster or natural catastrophe is that with the exception of National Guard personnel who volunteer for active duty under 10 U.S.C. 672(d) reference (fff)); or units or personnel not assigned to units ordered to active duty for a period of not more than 15 days per year, with the permission of the State Governor under 10 U.S.C. 672(b) reference (kkk)), National Guard forces on State active duty remain under the control of the Governor of the affected State during domestic disaster assistance operations.

D. SERVICE SUPPORT TO FEMA. Under the Individual Mobilization Augmentee (IMA) program, the Army and Air Force furnish over 600 Reservists to FEMA to augment the emergency capabilities of Federal, State, and local government emergency management agencies. This program is known as the FEMA IMA Program. Individuals in this program serve two weeks active duty each year in direct support of and under the supervision of State, city, and county officials. Often assigned to State and local emergency management offices, these Reservists may also perform duty at FEMA National Headquarters and the FEMA Regions. These Reservists perform duties ranging from wartime mobilization planning, peacetime disaster response planning, national security and disaster exercises, military support to civil authorities, volunteers for disaster assistance, and augmentation of FEMA staffs during emergencies. FEMA IMAs report to the FEMA Regional Directors through applicable State offices of emergency management. These augmenters serve at the behest of FEMA, the supported Federal Agency. However, they do not officially represent the Department of Defense.

E. SERVICE SPECIFIC PROGRAMS.

1. U.S. Army Reserves (usAR): The U.S. Army Reserve has extensive capability to compliment domestic support operations. This assistance and support may include the use of equipment, personnel, and other resources. USAR personnel may volunteer to support MSCA operations, however, units can not. USAR personnel, units, and personnel not assigned to units may be ordered to active duty for a period of not more than 15 days per year, often in lieu of annual training. (The CINC must concur before activation of IMAs assigned as EPLOs, the supported CINC must concur for Presidentially declared disasters.)

2. The Navy Emergency Preparedness Liaison Officer (EPLO) Program. Under the provisions of OPNAVINST 3440.16B (reference (111)), the Navy assigns qualified officers to FORSCOM, CONUSAs, State Adjutants General, and FEMA National and Regional headquarters. Navy EPLOS are operationally responsible to Navy Regional Planning Agents and the Fleet CINCs. Management and administration of the Navy EPLO program is provided by the Commander Naval Reserve Force. The Navy furnishes two EPLOS to FEMA National Headquarters. They are located in the Military Support Liaison Office in Washington, D.C. pursuant to the Department of the Navy's emergency program. The Navy also furnishes two EPLOS to each FEMA Regional headquarters, one EPLO to FORSCOM, and one EPLO to each CONUSA. Additionally, one EPLO serves as a Navy representative to each State Adjutant General and/or STARC headquarters to provide advice, coordination and assistance on emergency preparedness issues. Prior to activation of an EPLO for a Presidentially declared disaster, the supported CINC must concur.

3. The Air Force Emergency Preparedness Liaison (EPLO) Program

a. Air Force National Security Emergency Preparedness (AFNSEP). AFNSEP office is an action office assigned to Air Combat Command (ACC). During Presidentially declared MSCA operations, AFNSEP provides liaison representatives to the USACOM, FORSCOM, the CONUSA, the FEMA regional operation center and the DCO'S on-scene DCE at the DFO to assist in coordinating Air Force support. AFNSEP representatives may be military or civilian staff members or Air Force Reserve Category A Individual Mobilization Augmentee (IMA) Emergency Preparedness Liaison Officers (EPLO). AFNSEP serves as the OPR for the development of plans and procedures for Air Force support to civil authorities. Prior to activation of an EPLO for a Presidentially declared disaster, the supported CINC must concur.

b. The Civil Air Patrol (CAP)

See references (mmm) through (sss).

(1) Background. The CAP is a volunteer, non-profit, private corporation federally chartered by an Act of Congress. By public law, it is a civilian auxiliary of the U. S. Air Force. The CAP is not a military service and can only provide noncombatant support. Although paramilitary in organization and dress, CAP performs its services through the use of unpaid volunteers. Limited reimbursement of certain actual expenses can be made by the Air Force or other users.

(2) Operations. Organized into eight regions and 52 wings, the CAP can perform both civil and military non-combatant missions. These include search and rescue, Continental U.S.

Airborne Reconnaissance for Damage Assessment (CARDA), airborne and ground radiological monitoring, route survey and movement control, light-load airlift and/or courier service, radio communications (HF, VHF, VHF-FM) and transportation missions. The AFNSEP office is normally the point of contact with CAP. Because CAP is a volunteer auxiliary of the USAF, CAP may accept or decline missions based on hazardous or severe conditions.

(a) The Air Force is authorized to reimburse the CAP for fuel, lubricants, communications, and aircraft maintenance expenses incurred in carrying out noncombatant missions in support of the Air Force. When CAP units participate in MSCA operations under the auspices of the Air Force, funding to CAP members and units is limited to:

1 Ground and aviation fuel and lubricants consumed during MSCA missions authorized by the AFNSEP Division.

2 Communications expenses incurred while alerting or controlling CAP members participating in MSCA missions authorized by the AFNSEP Division.

3 Aircraft maintenance expenses incurred while participating in MSCA missions authorized by the AFNSEP Division are at rates delineated in CAP-USAF Regulation 170-5 (reference (rrr)).

(b) CAP reimbursement claims for participation in MSCA missions authorized by the AFNSEP Office are prepared and processed for reimbursement by the CAP unit concerned according to CAP-USAF Regulation 170-5 (reference (rrr)), for the type of disaster or emergency; i.e., a Presidentially declared (reimbursable under the Stafford Act (reference (f)) or an undeclared emergency.

(c) Timely, accurate, and complete reports covering CAP participation in MSCA operations are required. The Air Force employs TEMPEST RAPID reports IAW Air Force Instruction 10-206, Chapter 30 (with copies to all users, including HQUSAF) (reference (sss)).